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C O N F I D E N T I A L SECTION 01 OF 02 CARACAS 002183

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SUBJECT: CONCERNs ABOUT PRESIDENTIAL RECALL TIMELINE

CLASSIFIED BY: A/DCM ABELARDO A. ARIAS FOR REASONS 1.4 (D)

SUMMARY

¶11. (C) AS VENEZUELA APPROACHES THE AUGUST 15 PRESIDENTIAL RECALL VOTE, UNCERTAINTY REMAINS OVER POSSIBLE DELAYS IN THE RECALL PROCESS AND EXACTLY WHICH EVENT--THE RECALL VOTE OR THE RELEASE OF THE OFFICIAL RESULTS--MUST OCCUR BEFORE AUGUST 19 TO PREVENT TRIGGERING ARTICLE 233 OF THE CONSTITUTION. ARTICLE 233 STATES THAT IF THE PRESIDENT IS REMOVED IN THE LAST TWO YEARS OF HIS TERM, HIS VICE PRESIDENT ASSUMES POWER. WHILE SOME OPPOSITION LEADERS ARE CONFIDENT THAT SHOULD CHAVEZ LOSE THE RECALL VOTE, THE NATIONAL ELECTORAL COUNCIL (CNE) OR THE SUPREME COURT (TSJ) WILL NOT ATTEMPT TO DELAY THE PROCESS, NEITHER INSTITUTION IS LIKELY TO PROVIDE ANY CLARIFICATION IN THE NEAR FUTURE. END SUMMARY.

DATE OF RECALL VERSUS DATE OF OFFICIAL RESULTS

¶12. (C) ACCORDING TO THE CNE'S TIMELINE, FOLLOWING THE PRESIDENTIAL RECALL VOTE ON AUGUST 15, THE CNE HAS THREE DAYS TO TABULATE THE RESULTS AND WILL PUBLISH THEM BY SEPTEMBER 2. SOME OPPOSITION MEMBERS ARE CONCERNED THAT IF CHAVEZ THINKS THAT HE IS LOSING THE REFERENDUM HE MAY ARGUE THAT IS NOT TECHNICALLY REMOVED UNTIL THE CNE PUBLISHES THE RESULTS. A CONSTITUTIONAL EXPERT, TULIO ALVAREZ, STATED THAT IT IS NOT CLEARLY DEFINED IN THE CONSTITUTION IF THE PRESIDENT IS REVOKED ON THE DATE OF THE ELECTION OR WHEN THE CNE PUBLISHES THE OFFICIAL RESULTS. IN ALVAREZ'S OPINION, CHAVEZ'S LAST TWO YEARS DO NOT START UNTIL JANUARY 10, 2005. SO AS LONG AS THE RECALL IS HELD BEFORE JANUARY, HE ASSERTS, ARTICLE 233 SHOULD NOT BE APPLIED.

¶13. (C) FELIPE MUJICA, PRESIDENT OF MOVIMIENTO AL SOCIALISMO (MAS) TOLD POLOFFS JUNE 17 THAT THE LAW IS ON THE OPPOSITION'S SIDE AND THAT HE IS CONFIDENT THAT SHOULD CHAVEZ LOSE THE RECALL VOTE THE GOVERNMENT WILL NOT TRY TO ARGUE THAT THERE SHOULD BE NO FOLLOW-ON PRESIDENTIAL ELECTION BECAUSE THE PUBLICATION OF THE RESULTS WILL OCCUR AFTER AUGUST 19. BORGES STATED ON JUNE 18 THAT THE VENEZUELAN PEOPLE WOULD NOT PERMIT SUCH A MOVE BY THE GOVERNMENT AND CLAIMED CHAVEZ WOULD DO NOT ATTEMPT SUCH A STRATEGY FOR FEAR OF LOSING LEGITIMACY IN THE INTERNATIONAL COMMUNITY.

NO SIGN FROM CNE OR TSJ

¶14. (C) THE CNE HAS BEEN SILENT ON THE DEBATE AND THE TSJ VAGUE. TSJ RULING OF JUNE 15 DETERMINED THAT CHAVEZ THAT CHAVEZ COULD RUN IN 2006 IF RECALLED, BUT DID NOT ANNOUNCE WHETHER CHAVEZ COULD RUN IN THE IMMEDIATE FOLLOW-ON ELECTION SHOULD HE BE RECALLED. (NOTE: TSJ PRESIDENT RINCON PRIVATELY TOLD THE AMBASSADOR EARLIER THIS YEAR THAT IF CHAVEZ WERE RECALLED, HE WOULD PERMIT HIM TO RUN IN THE FOLLOW-ON ELECTION.) COPEI DEPUTY CESAR PEREZ VIVAS HAS REQUESTED CLARIFICATION FROM THE TSJ, BUT THERE IS NO INDICATION THAT THE COURT WILL RESPOND.

SPECULATIONS AND CONSPIRACY THEORIES ABOUND

¶15. (C) THE RELATIVE SILENCE IN THE CNE AND TSJ HAS LED TO SPECULATIONS AND THEORIES. BORGES TOLD POLOFFS THAT HE BELIEVED THAT THE TSJ DID NOT RULE ON WHETHER CHAVEZ COULD RUN IN A FOLLOW-ON ELECTION TO UNDERMINE OPPOSITION EFFORTS TO UNITE AROUND A SINGLE CANDIDATE. BORGES SPECULATED THAT IF MEMBERS OF THE COORDINADORA DEMOCRATICA (CD) THOUGHT THAT CHAVEZ WOULD NOT BE ABLE TO RUN, THEN THE THERE WOULD BE LESS

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THE UNCERTAINTY OF WHEN

ARTICLE 233 SHOULD BE INVOKED TO WIN THE RECALL BECAUSE NEITHER CHAVISTAS NOR OPPOSITION SUPPORTERS WANT VICE PRESIDENT RANGEL TO BECOME PRESIDENT.

¶16. (C) ANOTHER RUMOR SWIRLING AROUND THE OPPOSITION MOVEMENT IS THAT CHAVEZ IS WORKING WITH LEFTIST MEMBERS OF THE CD, PROBABLY MAS OR CAUSA R. ACCORDING TO THIS THEORY, IF CHAVEZ LOSES THE RECALL, HE WOULD NEGOTIATE WITH THE OPPOSITION TO NAME A TRANSITIONAL PRESIDENT, AND THUS BYPASS THE CONSTITUTIONAL MECHANISM FOR SUCCESSION. PRESIDENT OF CAUSA R, ANDRES VELASQUEZ, ON JUNE 22 TOLD POLOFFS A DIFFERENT VERSION OF THE RUMOR, STATING THAT HE HAD HEARD THAT CHAVEZ WAS GOING TO DELAY THE RECALL UNTIL AFTER AUGUST 19 AND NEGOTIATE WITH UNKNOWN ELEMENTS OF THE OPPOSITION ON WHO WOULD BE THE TRANSITIONAL PRESIDENT.

COMMENT

¶17. (C) NEITHER THE CNE NOR THE TSJ ARE LIKELY TO PROVIDE ANY CLARIFICATION TO THE UNCERTAINTY SURROUNDING THE PRESIDENTIAL RECALL PROCESS. IT SERVES CHAVEZ'S INTERESTS TO KEEP THIS POINT FUZZY UNTIL THE RESULTS OF THE REFERENDUM ARE KNOWN, AND WHEN CHAVEZ CAN JUDGE WHAT BEST SUITS HIS INTERESTS AND WHAT HE CAN AND CANNOT GET AWAY WITH.

MCFARLAND

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